

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1869 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

FOOD CORPORATION OF INDIA

Versus

KUTCH SHIPPING AGENCY PVT.LTD.

Appearance:

M/S THAKKAR ASSOC. for Petitioner
MR NV ANJARIA for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 22/12/2000

ORAL JUDGEMENT

#. By the present revision application the defendant of Special Civil Suit No.110/95 has challenged the order passed by the Civil Judge (SD), Anjar - Gandhidham-Kachchh passed below Exh.23 in the aforesaid

suit. By the impugned order, the defendant was asked to produce certain documents as prayed for by the plaintiff in the said application.

#. The respondent herein is the original plaintiff of the aforesaid Special Civil Suit. The said suit has been filed for recovery of certain amount from the Food Corporation on the ground that he was shipping agent. In the said suit, he had asked for decree for certain amount. At the time of trial, the application Exh.23 was given by the plaintiff with a prayer that there are certain documents which are in possession of the defendant and are required to be produced on record as it will have bearing for decision of the suit. The said documents have been mentioned in application Exh.23. The learned trial Judge has allowed the said application and the said order is challenged in the revision application. At the time of hearing the revision application, learned Judge has passed the following order.:

"It shall be open to the parties to produce documentary evidence in their possession and custody. The court shall consider the evidentiary value thereof irrespective of the stay of the operation of the order passed below Exh.23."

Thereafter, the matter has reached for final hearing today.

#. Mr.Pahwa for the original defendant has argued that these documents are not relevant for deciding the suit in question and that it is not open for them to produce so many documents in the court as so far as some of the documents are concerned, it is merely an internal correspondence.

#. As against the aforesaid arguments, it was argued by Mr.Anjaria that, it is an interlocutory order and the jurisdiction of this court cannot be invoked under section 115 of CPC for challenging such orders.

#. After hearing both the sides, I am of the opinion that, the impugned order is regarding production of certain documents as mentioned by the plaintiff in his application Exh.23. No rights of the parties are decided yet. This order is only an interlocutory order during the progress of the suit. It, therefore, cannot attract the provisions of section 115 of CPC as the main suit is still pending and the rights of the parties are yet to be adjudicated. This revision application is, therefore,

not required to be entertained. However, it is clarified that after producing the documents, the court will examine its relevancy before taking them into account and thereafter the court will pass appropriate order and the directions given by interim order while admitting the revision application may also be taken into consideration. It will be open for both the sides to point out to the learned trial Judge whether these documents has got any relevancy or not. Suffice it to say that, there is hardly any error in the impugned order and therefore, it is not possible for this court to interfere with the order of the trial court.

#. Learned advocate for the petitioner submits that, some documents are privilege in nature. As against that Mr.Anjaria argued that, question of privilege is not relevant while considering the question under section 43. Mr.Pahwa submits that, if there is privilege document, the court is bound to decide the same. The aforesaid question is kept open as according to Mr.Pahwa he will file appropriate application for reviewing the order and the same will be decided by the trial court in accordance with law. It will be open for the petitioner to move the court for claiming privilege and the trial court will decide the same in accordance with law.

#. Subject to the aforesaid observations, this revision application is dismissed. Rule is discharged with no order as to costs. Since the suit is of 1985, the trial court is directed to dispose of the suit at the earliest preferably by August, 2001.

(P.B.Majmudar,J)
(pathan)